

ORIGINAL



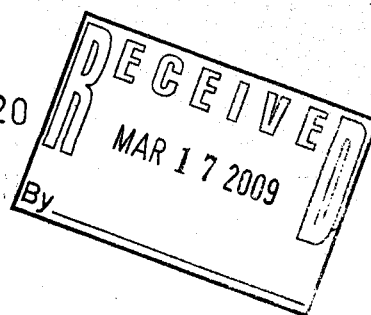
WS-03478A-08-0608

RECEIVED

March 16, 2009

2009 MAR 17 P 12:20

AZ CORP COMMISSION
DOCKET CONTROL



To: Arizona Corporation Commission
Attn: Commissioners
1200 W. Washington Street
Phoenix, AZ 85007

From: Gerald R. Frye

Subject: My letter dated March 12, 2009 concerning Palm Shadows Wastewater Treatment Plant, Far West Water & Sewer Company -Yuma, AZ

Dear Chairman Mayes:

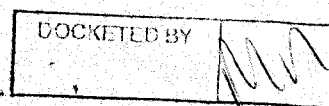
Due to my ongoing review of the Palm Shadows Plant, as it relates to the Vista Del Sol subdivision, I want to inform you of my current findings and related information.

The information on Item A. 1. of my March 12, 2009 letter, needs more history added. Along with ADEQ's authorization of the Palm Shadows Wastewater Treatment Plant, Yuma County also authorized the Plant by a "Special Use Permit". And, the city of Yuma rezoned the land for "the operation of a wastewater treatment plant" (see attached Development Agreement). So, it appears those agencies, as well as ADEQ, are responsible for the doomed Plant being constructed at that site and, they should be referenced in Item A. 10. of that letter. Therefore, in my opinion, those agencies are responsible for the \$500,000 +/- Palm Shadows Wastewater Treatment Plant failure (paid for by subdivision property owners) and, they should be responsible of correcting the problem. Like connecting the cities West Dunes facility, etc.

The following is another prime example of Far West's classic property development approach. The subdivision developer, who was the President of Far West Water & Sewer Company, was also the "licensed real estate broker" for the Vista Del Sol subdivision (see attached Purchase Contract & Receipt). So, (1) subdivision lots completely sold, very good planning on their part. (2) Palm Shadows Wastewater Treatment Plant failed, no planning at all. (3) Customers complain about odors and still 5 lot owners cannot build due to building moratorium. Plus, Far West wants to increase sewer fees by 214% to correct these and other problems. Buyers Beware. What's wrong with this picture?

Arizona Corporation Commission
DOCKETED

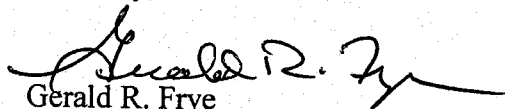
MAR 17 2009



I've taken time to look through news paper articles and other information available on the ongoing Far West sewer disaster. If you look at them "one by one" as they developed, they don't seem too outrageous. But, if you look at them in total as "the big picture" it is very depressing that something like this could continue for so long. The right hand didn't know what the left hand was doing. Some of my attachments are statements made by various agencies concerning Far West Water & Sewer Companies state of affairs.

Finally, my assessment of Far West's problems is becoming more clear there is something along the lines of the "Good Old Boy" syndrome that has been taking place in the Foothill Area for some time. All in the name of development and tax revenues.

Sincerely,



Gerald R. Fry
9565 E. 33rd Street
Yuma, AZ 85365

cc: U.S. Senator John McCain
Arizona Governor, Jan Brewer
Arizona Department of Environmental Quality, Director
Arizona Residential Utility Consumer Office, Director
City of Yuma, Mayor
County of Yuma, Administrator

(Guess which comments are from residents).

"The problem is knowing if there is a problem"

"If you report a sewer overflow, no one calls you back"

"This isn't a paperwork matter----it's a serious matter"

"They want it fixed now and that's a little unreasonable"

"complaint lists 50 counts against the companies" (Far West and H & S Developers)

"There were very serious violations that put the community at risk"

"--- permit violations are in the gray area"

"---Far West attempted to operate beyond its ability to handle the volume of wastewater"

"This seems to be a general problem with Far West"

"Every Far West wastewater treatment facility failed state inspections"

"Arizonans must be able to trust that business providing their BASIC necessities will place public safety ahead of corporate profits"

"Building permit requests --- final decision made by Yuma County Board of Supervisors"

"Growth in the Foothills ran faster than we did"

"our plants are not designed to handle current needs"

"Something like this could depreciate my property value"

"We are understaffed and underfunded--- to properly protect the consumer"

"It wasn't false information--we were just not getting any information"

"It was very strong, almost every night you can smell it"

The above reminds me of a bumper sticker I saw in the Foothills several weeks ago

"Government Policy -- If it isn't broke, keep fixing it until it is broken".

Far West seeks \$25.2 in ID bonds for treatment plants

Comments 0 | Recommend 0

October 10, 2007 - 11:25 PM

BY JOYCE LOBECK, SUN STAFF WRITER

Far West Water and Sewer is requesting \$25.2 million in tax-exempt bonds to finance improvements to its wastewater treatment plants. The request was heard Wednesday by the Yuma County Industrial Development Authority, which oversees issuance of industrial development bonds. It will now go before the Yuma County Board of Supervisors for approval. The board will consider the request during its meeting at 9 a.m. Monday.

Because interest earned on ID bonds is tax exempt, they are more attractive to investors, and also provide lower cost funding for economic development projects, said Andy Capestro, an attorney for Far West, which provides water and sewer services for the Foothills area.

"That savings goes to the consumers," he said. "That helps keep down the cost to customers."

PUBLIC NOTICE OF PUBLIC COMMENT AND HEARING ON THE RATE APPLICATION OF FAR WEST WATER & SEWER COMPANY DOCKET NO. WS-03478A-08-0454

On August 29, 2008, Far West Water and Sewer Company ("Far West" or "Company") filed an application with the Arizona Corporation Commission for an increase in annual revenues for sewer service of \$4,595,748, an approximate 214.8 percent increase in annual revenue over its current revenues. The Company has proposed a three year phase-in of the requested increase. Under current rates, residential customers pay \$21.75 per month. Commercial customers pay \$43.50 per month and Recreational Vehicle Parks pay \$5.44 per parking space. Under the rates proposed by the Company, in Phase One a residential customer would pay \$54.38 per month (a \$32.63 or 150 percent increase), commercial customers would pay \$108.75 per month (an increase of \$65.25, or 151 percent), and Recreational Vehicle Parks would pay \$13.60 per space (an increase of \$8.16, or 150 percent). Under the Company's proposed Phase

ACC must rule whether rate hikes necessary

February 24, 2009 - 11:30 PM

Without a quick rate hike, the company has indicated it might go out of business, leaving customers in a serious dilemma.

Purchase Contract and Receipt



Palm Shadows Partnership
1334 South 5th Avenue
Yuma, Arizona 85364
(928) 782-1801

Yuma, Arizona

DATE

16-Mar-2002

RECEIVED FROM:

[REDACTED], husband and wife, CPWROS

The Sum of Five hundred dollars DOLLARS (\$ 500.00) In the form of: personal check

As earnest money and part purchase price of the following described property, situated in the County of Yuma, State of Arizona, to wit:

Lot 419, Vista Del Sol Unit #4, for the full purchase price of

Twenty eight Thousand Five Hundred Fifty DOLLARS (\$ 28,550.00)

JACOBSON COMPANIES BY Ruth Wiseman

The balance of the purchase price to be paid as follows, to wit:

\$ 28,550.00 by above deposit with YUMA TITLE & TRUST

\$ 500.00 Earnest deposit

\$ 28,050.00 Cash at close of escrow from loan with Bank of America

Interest on deferred payments at the rate of _____ percent per annum, from _____, payable

IT IS HEREBY AGREED: First, that in the event said purchaser shall fail to pay the balance of said purchase price, or complete said purchase as herein provided, the seller may demand specific performance of this contract, or may retain the amount paid herein as liquidated and agreed damages, as he may elect.

Second: The purchaser and seller agree that if the title to the above property be defective, ninety days from this time will be given the seller, or his agent, to perfect same. If said title can not be perfected within said time limit earnest money receipt for herein shall, upon demand of the purchaser, be returned to the purchaser and this contract canceled.

Third: That the evidence of title is to be a Title Insurance Policy issued by YUMA TITLE & TRUST insuring the purchaser in the full amount of the purchase price shown herein, and to be issued and paid for by the seller; said title insurance policy to show title to said premises to be subject to the usual exceptions contained in the regular form of owner's policy of title insurance in use by YUMA TITLE & TRUST and subject to building and other restrictive covenants of record pertaining to the use of said premises and encumbrances, taxes and assessments or other matters affecting said property as follows: None

Closing shall be no later than 1-Jun-2002, subject to extensions set forth in escrow instructions and the cancellation provision thereof.

Fourth: It is understood and agreed that the purchaser is of legal age and that said property has been inspected by the purchaser or the purchaser's duly authorized agent; that the same is, and has been, purchased by the purchaser as the result of said inspection and not upon any representation made by the seller, or any selling agent, or other agent of the seller, and the purchaser hereby expressly waives any and all claims for damages because of any representation made by any person whomsoever other than as contained in this agreement, and the seller or his agent shall not be responsible or liable for any inducement, promise, representation, agreement, condition or stipulation not specifically set forth herein.

Fifth: That the taxes, insurance, rents, etc. affecting said premises shall be prorated to the close of escrow.

Sixth: This contract shall become binding only when executed by the purchaser and by the seller, and shall be in force and effect from the date of such execution.

Seventh: Time is declared to be the essence of this contract.

Eighth: This earnest money is to be deposited with YUMA TITLE & TRUST and all other funds to be paid by the parties hereto are to be paid in escrow to YUMA TITLE & TRUST and the parties hereto agree to pay, in equal portions, the fee for escrow services in connection with this transaction; and the purchaser agrees to pay the costs of recording any instruments which directly convey title to the purchaser which evidence the rights of the purchaser in there premises, or which evidence any deferred balance due upon this purchase.

Ninth: The parties hereto agree also (within 10 days from the date of acceptance hereof by seller) to execute escrow instructions to YUMA TITLE & TRUST upon its ordinary form for the guidance of said company in the handling of this transaction, providing the terms of said escrow instructions do not conflict with the terms and conditions hereof.

Tenth: The seller agrees to deliver or cause to be delivered to YUMA TITLE & TRUST all instruments which are required to carry out this contact and to cause said Title Company to issue the insurance policy herein provided for; and the conveyance of these premises by the seller to the purchaser shall be by warranty deed, subject to the conditions of this agreement.

Eleventh: This deposit is accepted subject to prior sale and subject to approval of seller.

THE PURCHASER MUST BE GIVEN A COPY OF THE PUBLIC REPORT OF THE ARIZONA DEPARTMENT OF REAL ESTATE PRIOR TO THE SIGNING OF THIS DOCUMENT.

IT IS UNDERSTOOD THAT DONALD E. JACOBSON AND BRENT H. WEIDMAN ARE LICENSED REAL ESTATE BROKERS DEALING AS PRINCIPLES HEREIN.

THE PURCHASER OR LESSEE HEREUNDER HAS THE LEGAL RIGHT TO RESCIND (CANCEL) THIS AGREEMENT WITHOUT CAUSE OR REASON OF ANY KIND AND TO THE RETURN OF ANY MONEY OR OTHER CONSIDERATION UNTIL MIDNIGHT OF THE SEVENTH CALENDAR DAY FOLLOWING THE DAY THE PURCHASER OR LESSEE EXECUTED SUCH AGREEMENT BY SENDING OR DELIVERING WRITTEN NOTICE OF RESCISSION TO THE SELLER. FURTHER, IF THE PURCHASER OR LESSEE DOES NOT INSPECT THE LOT OR PARCEL PRIOR TO THE EXECUTION OF THE AGREEMENT, THE PURCHASER OR LESSEE SHALL HAVE A SIX-MONTH PERIOD TO INSPECT THE LOT OR PARCEL, AND AT THE TIME OF INSPECTION SHALL HAVE THE RIGHT TO UNILATERALLY RESCIND THE AGREEMENT.

We (I) the undersigned certify the we have inspected the lot(s) to be purchased before signing this contract.

We (I) agree to purchase the above described property on the terms and conditions herein stated, provided acceptance of this agreement by seller, or his authorized agent is made on or before 16-Mar-2002

Seller - Palm Shadows Partnership

Date

By:

Brent H. Weidman
Agent

Purchaser

Date

3-16-02

Purchaser

Date

3-16-02

61280 Blakely Road, Bend, OR. 97702

Purchaser's Address

(541) 382-6035 home

Purchaser's Phone Number

BASE PRICE	\$ 22,500.00
FENCE	1,500.00
SEPTIC PACK	
GRADE AND GRAVEL	4,550.00
OTHER	
TOTAL	\$ 28,550.00

City of Yuma

EXHIBIT A

FEE #: 1998 - 296

DEVELOPMENT AGREEMENT

11/04/1998 11:39 PAGES: 000
FEES: 4.00 4.00 .00 .00
REQ BY: CITY OF YUMA
REC BY: ELIZABETH POST

Vista del Sol Recreational Vehicle Subdivision
West of Avenue 10E, Highway 80

THIS AGREEMENT, made and entered into, pursuant to Arizona Revised Statutes (A.R.S.) § 9-500.05, by and between Palm Shadows Partnership ("OWNER"), and the CITY OF YUMA ("CITY"), a municipal corporation of the State of Arizona.

RECITALS

The CITY adopted its General Plan in 1983, and the use and development of the property is consistent with the goals and objectives of the City of Yuma General Plan, as amended, and

The OWNER is owner of real property, Assessor's Parcel No. 112-20-040, ("PROPERTY") located in unincorporated lands which is territory that is desired by the CITY to be annexed into the boundaries of the CITY, and

The CITY acknowledges that Jacobson Companies has been planning, for several years, the design and construction of the Vista del Sol subdivision in accordance with Yuma County zoning, subdivision, and construction standards and that annexation may adversely impact the financial feasibility of the project by the requirement of imposing City standards for development, and

The OWNER desires certain assurances and/or commitments from the CITY upon annexation.

THEREFORE, in consideration of the above recitals, the parties agree as follows:

- I. The OWNER agrees to consent to annexation of PROPERTY into the City of Yuma pursuant to A.R.S. 9-471, and to utilize City of Yuma water to serve the project, and not promote the expansion of the Far West Water Company's water service area into the City of Yuma's water service area
- II. The OWNER agrees to provide to the CITY, at no cost, a fifteen foot utility easement along the Stetson Avenue alignment, extending across the entire width of the property.
- III. Upon annexation the CITY agrees to rezone the PROPERTY, at no cost to the OWNER, the County C-2 zoned property to the City's B-2 zoning district as set forth in Section 111 in the CITY's Zoning Code, and the remainder of the PROPERTY to CITY's RVS zoning district as set forth in Section 075 in the CITY's Zoning Code. The CITY also agrees that once the PROPERTY is rezoned to the City's RVS zoning district, one single-family residence per parcel, limited to either a recreational vehicle, manufactured home, or site built home is permitted. However, if a parcel has an area of at least six thousand square feet one additional recreational vehicle may occupy the parcel, in accordance with the County's RVS zoning

district regulations.

Additionally, the CITY agrees to rezone the south six hundred and sixty feet of the PROPERTY to the CITY's C-2 zoning district for the operation of a wastewater treatment plant, as authorized by a Special Use Permit granted by Yuma County.

- IV. Upon annexation the CITY agrees that the following development standards on the planned Vista del Sol subdivision plat are to be considered grandfathered and acceptable to the CITY, subject to requirements to comply with all other applicable City, County, State or Federal laws, regulations or rules
- a. Street Widths. The existing County standards of fifty-foot width right-of-way and thirty-eight foot pavement width for local streets will prevail. The existing County eighty-foot right-of-way width for mid-section line roads will prevail and no median will be required.
 - b. Curb, Gutter, and Sidewalks. The existing County standards of rolled curb and gutter exclusive of any sidewalk requirement will prevail.
 - c. Retention Basin Slope. The existing County standard of a 3:1 retention basin slope will prevail.
 - d. Future Pro Rata Fees. In the event the City establishes a Pro Rata plan for the East Mesa area, the Vista del Sol subdivision will be exempt from any Pro Rata fees or credits, with the exception of fire Pro Rata fees at a fee of \$1,044/ac (*same as Cielo Verde and The Lakes of Yuma*).
- V. The CITY agrees that the plat layout and design for Vista del Sol Recreational Vehicle Subdivision as presented to the CITY on the date of this Agreement (Exhibit 1) is acceptable as prepared in conformance with Yuma County subdivision regulations. Additionally, the CITY agrees to recognize the Special Use Permit issued by Yuma County for the wastewater treatment plant to be located on the PROPERTY.
- VI. This Agreement will commence upon the date of its execution, and will terminate when the obligations of the parties with respect to the improvements and use of the property contained in this Agreement are fully complied with and the parties mutually provide for termination.
- VII. All notices, demands or other communications must be in writing and are deemed to duly delivered upon personal delivery, or as of the second business day after mailing by United States mail, postage prepaid, registered or certified, return receipt requested, addressed as follows:

CITY: City Administrator
City of Yuma
180 West First Street
Yuma, Arizona 85364

AGENT: Bruce Jacobson
Jacobson Companies
1334 S. 5th Avenue
Yuma, Arizona 85364

If either party changes address they must give written notice to the other party. Notice of

change of address is deemed effective five (5) days after mailing by the party changing address.

- VIII. This agreement is not assignable unless both parties mutually consent otherwise in writing. The requirements of this Agreement are binding upon the heirs, executors, administrators, successors, and assigns of both parties.
- IX. If either party fails to require the other party to perform any provision of this Agreement, that failure does not prevent the other party from later enforcing that provision. Neither party is released from any responsibilities or obligations imposed by law or this Agreement if the other party fails to exercise a right or remedy.
- X. The laws of the State of Arizona govern this Agreement as to validity, interpretation, and performance. The parties must institute and maintain any legal actions or other judicial proceeding arising from this Agreement in a court of competent jurisdiction in the Yuma County, Arizona.
- XI. If either party brings an action or proceeding for failure to observe any of the terms, or provisions of this Agreement, the prevailing party may recover, as part of the action or proceeding, all litigation, arbitration, and collection expenses, including, but not limited to, witness fees, court costs and reasonable attorney fees.
- XII. This Agreement contains the entire agreement between the parties, and no oral or written statement, promises or inducements made by either party or its agents not contained or specifically referred to in this Agreement is valid or binding. All modifications to this Agreement must be in writing, signed, and endorsed by the parties.

WITNESSED, the parties executed this Agreement through their authorized representatives on 28th day of October, 1998.

APPROVED:
CITY OF YUMA

By Joyce A. Wilson
Joyce A. Wilson
City Administrator

BRUCE JACOBSON
DONALD JACOBSON
BRENT WEIDMAN

By Bruce Jacobson
Bruce Jacobson
Donald Jacobson
Donald Jacobson
Brent A. Weidman
Brent Weidman

ATTEST:

for By Brigitta K. Stanz
Brigitta K. Stanz
City Clerk

By Steven W. Moore
Steven W. Moore
City Attorney